

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

AMERISURE INSURANCE COMPANY,)
Plaintiff,)
v.) CIVIL ACTION NO.: 2:06-CV-1097-MHT
LOWDER CONSTRUCTION)
COMPANY, INC. and COLONIAL)
REALTY LIMITED PARTNERSHIP,)
d/b/a COLONIAL PROPERTIES)
REALTY LIMITED PARTNERSHIP,)
Defendants.)

MOTION BY LOWDER CONSTRUCTION COMPANY, INC.
FOR LEAVE TO FILE RESPONSE TO PLAINTIFF'S
BRIEF IN OPPOSITION TO LOWDER'S MOTION TO STRIKE

COMES NOW the defendant, Lowder Construction Company, Inc., and moves this Court permit Lowder a period of ten (10) days to file its brief in response to Amerisure's Opposition to Lowder's Motion to Strike. For grounds, you rmovant would show unto the Court as follows:

1. The plaintiff, Amerisure, has made certain arguments concerning Lowder's position with respect to the legal effect of Reservation of Rights Letters which are at issue in this matter.
2. The question before the Court is the legal effect of those Reservation of Rights Letters is a question of law as opposed to one of opinion.
3. The Brief submitted by Amerisure cites no legal authority in support of any of its positions.

4. Lowder requests a brief period of time to provide the Court pertinent legal authorities in response to Amerisure's position.

BALL, BALL, MATTHEWS & NOVAK, P.A.

/s/ Tabor R. Novak, Jr. – NOV001

JACK OWEN – OWE009
Attorneys for the Defendant
Lowder Construction Company, Inc.

BALL, BALL, MATTHEWS & NOVAK, P.A.
2000 Interstate Park Drive
Suite 204
Post Office Box 2148
Montgomery, Alabama 36102-2148
(334) 387-7680
(334) 387-3222 (Fax)
Email: TNOVAK@BALL-BALL.COM
CCOWEN@BALL-BALL.COM

CERTIFICATE OF SERVICE

I hereby certify that on this 1ST day of October, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Kile T. Turner, Esq.
Norman, Wood, Kendrick & Turner
505 20th Street North, Suite 1600
Birmingham, Alabama 35203

David Proctor, Esq.
Clark R. Hammond, Esq.
William D. Jones, Esq.
Johnston, Barton, Proctor & Powell, LLP
2900 AmSouth/Harbert Plaza
1901 6th Avenue North
Birmingham, Alabama 36203

/s/ Tabor R. Novak, Jr.
OF COUNSEL